

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE: §
§
TRUST AND MYZONG THAO, § CASE NO. 18-42847
§ (Chapter 7)
DEBTORS §

**MOTION FOR AUTHORITY TO SELL REAL PROPERTY FREE
AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES
LOCATED AT 2355 NW WITHERSPOON AVENUE, ROSEBURG, OREGON 97471**

Notice

Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

No hearing will be conducted on this pleading unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading **WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE** listed in the certificate of service unless the court shortens or extends the time for filing such response. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the court may enter an order granting the pleading. If an objection is filed and served in a timely manner, the court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The court reserves the right to set a hearing on any matter.

TO THE HONORABLE BRENDA T. RHOADES, U.S. BANKRUPTCY JUDGE:

Christopher J. Moser, Trustee ("**Trustee**") files his Motion for Authority to Sell Real Property Free and Clear of All Liens, Claims and Encumbrances Located at 2355 NW Witherspoon Avenue, Roseburg, Oregon 97471 ("**Motion**") pursuant to the provisions of 11 U.S.C. §363(f) as follows:

1. On December 18, 2018 (the "**Date of Bankruptcy**"), Trust and Myzong Thao ("**Debtors**") filed with this Court a voluntary petition under Chapter 7 of the Bankruptcy Code.
2. Christopher J. Moser is the acting Chapter 7 Trustee of the Debtors' bankruptcy estate.
3. The bankruptcy estate owns real property and improvements located at 2355 NW

Witherspoon Avenue, Roseburg, Oregon 97471 (the “**House**”). According to the Debtor’s Schedules, as of the Date of Bankruptcy the House was encumbered by a first lien mortgage in favor of Caliber Home Loans, Inc. (“**Caliber**”) in the approximate amount of \$417,000.00.

4. The Trustee has received an offer from Kris and Kristin Ammerman and/or their assigns (“**Buyers**”) to purchase the House for \$365,000.00. The offer will result in a “short sale” since there will be insufficient sale proceeds to pay-off the first lien mortgage of Caliber.

5. Trustee seeks authority to sell the House to the Buyers for \$365,000.00 and: i) to pay Caliber the amount of \$316,000.00; ii) to pay the bankruptcy estate a carve-out of approximately \$25,000.00 from Caliber’s lien and iii) to pay normal closing costs, including a realtor’s commission in the amount of \$20,000.00. Seller will pay for the title policy, seller’s closing costs and the unpaid real property taxes.

6. Trustee further seeks authority to execute the documents necessary to release the Caliber’s mortgage lien upon the House following payment of \$365,000.00 and to sign any and all documents necessary to close the sale of the House.

7. In summary, the Trustee seeks authority to sell the House pursuant to 11 U.S.C. §363(f) on the following terms:

- a. Property to be sold: the House (as defined above)
- b. Purchasers: Kris and Kristin Ammerman
- c. Price: \$365,000.00
- d. Terms: Cash to Seller
- e. Release of Liens: Caliber will release its first lien upon the House upon being paid \$316,000.00

8. Trustee believes that the sale of the House, as set forth herein, is in the best interest of the estate. This proposed sale is subject to any higher or better offers from a qualified buyer prior to the entry of a sale order approving this Motion.

9. Finally, due to the need to close this sale so as to stop the accrual of property taxes and to

retain the Buyer, Trustee requests that any order approving this Motion exclude the fourteen day stay provided in Rule 6004(h) of the Federal Rules of Bankruptcy Procedure.

WHEREFORE, PREMISES CONSIDERED, the Trustee respectfully requests that pursuant to the provisions of 11 U.S.C. §363(f) this Court approve the sale of the House to a buyer on the above terms and that Trustee be granted such other and further relief to which he is justly entitled.

Respectfully submitted,

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By: /s/ Christopher J. Moser
Christopher J. Moser

ATTORNEYS FOR TRUSTEE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via regular U.S. mail, postage prepaid, on the 31st day of July, 2019, upon all parties on the attached mailing matrix and upon the following:

Caliber Home Loans, Inc.
c/o Heather Gram-Chavez, Esq.
Barrett Daffin et al.
4004 Belt Line Road, Suite 100
Addison, Texas 75001

/s/ Christopher J. Moser